

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.: 685 of 2006.

Decided on: 11.06.2007.

Power Grid Corporation of India Ltd. ... Petitioner.

Versus

Shri Jia Lal Sharma. ... Respondent.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

*Whether approved for reporting?*¹ No.

For the petitioner: Mr. K.D. Shreedhar, Advocate.

For Respondent: Mr. Ramesh Sharma, Advocate.

Rajiv Sharma, Judge:

This petition arises out of the award dated 30.3.2006 announced by the Additional District Judge, Shimla under Section 16(3) of the Indian Telegraph Act, 1885.

The brief facts which can be culled out from the pleadings of the parties are that the respondent's land comprised in Khasra No.287, Khatauni No.126 min, Khewat No.75/58 min, measuring 0-37-73 hectares situated in Batwara, Chak Andhwi, Pargana Uba Desh, Tehsil Kotkhair, District Shimla, H. P. had been used by the petitioner-Corporation for the construction of tower for laying down high power tension line from Nathpa Jhakri

Whether reporters of local papers may be allowed to see the judgment? No.

at Rampur to Abdullapur in Haryana causing damage to 60 apple trees of seven years to the extent of 50% and 18 trees were totally damaged. The respondent had been paid a sum of Rs.12,532/- as compensation. The respondent had filed claim petition before the learned Additional District Judge on 31.5.2000. The petitioner-Corporation had filed reply to the claim petition. The learned Additional District Judge had awarded a sum of Rs.1,12,788/- as compensation with interest at the rate of 7.5 per cent to the respondent.

Mr. K.D. Shreedhar appearing on behalf of the petitioner-Corporation had strenuously argued that the award dated 30.3.2006 is not sustainable in the eyes of law. Mr. Ramesh Sharma, Advocate appearing on behalf of the respondent had supported the award dated 30.3.2006.

I have heard the parties and gone through the record.

Admittedly, damage has been caused to 60 apple plants of the age group of seven years to the extent of 50% and 18 trees belonging to the respondent were totally damaged. The respondent had examined himself as PW-1 and had deposed that his apple trees mentioned in the claim petition were damaged. Shri Prabhu Dayal while appearing as PW-2 had stated that the trees had 30 centimeters girth. PW-3 Shri Geeta Ram had deposed that there was increase of 1205 per cent between the period 1966 to 1998 and 1539 per cent till June, 2004.

The petitioner-Corporation had examined Shri S.N. Thakur, Junior Engineer as RW-1, who had admitted that the tower line

was laid in June, 1998. Shri Hari Ram Chaudhary, Deputy General Manager while appearing as RW-2 had testified that the claim was allowed as per notification in the gazette.

This Court has held in **Union of India and others Versus Khazana Ram and others** reported in 1998 (1) SLC, 479 as under:-

“So far the present case is concerned, the year of assessment is 1989 and if we rely upon the Price Index filed along with the replies to the stay applications in the writ petitions, the Price Index has arisen from 79.7 in the year 1966 to 428.8 in the year 1988 taking the Price Index as 100 for the base year 1970-71. The Price Index for the year 1989 has been shown 176.4 by taking 100 for the base year 1981-82. Therefore, the increase from 1966 to 1989 will be approximately five times. Accordingly, we hold that the ends of justice would be met if the claimants are given compensation five time of the compensation assessed by the Department as per Annexure PB to the writ petitions and Ext. RW-1/A on the file of the District Judge. Accordingly, the writ petitions are partly allowed, whereas, the revision petitions are dismissed and the impugned awards dated 29.4.1997 passed by District Judge, Bilaspur are modified. No costs.”

The learned Additional District Judge had correctly enhanced the compensation on the basis of Harbans Singh Formula and after taking into consideration the price rise index produced on record by PW-3 Shri Geeta Ram. The method adopted by the learned Additional Judge cannot faulted with. A sum of Rs.68,045/- awarded by the learned Additional District

Judge as compensation for the damage of 21 apple trees is just and fair and will not be interfered by this Court.

There is neither any jurisdictional error nor any procedural irregularity in the award dated 31.3.2006 announced by the learned Additional District Judge.

Accordingly, there is no merit in the writ petition and the same is dismissed. The award dated 31.3.2006 is up-held and interim order dated 23.8.2006 confirmed on 4.1.2007 is vacated. There shall be no order as to costs.

June 11, 2007
(sck).

(Rajiv Sharma)
Judge